## Force Review Board



CHIEF'S REPORT

**BUSINESS** 

(P78F)

OCTOBER 28, 2021

• None

TIME: 1005 TO 1136

**HOURS** 

APD HEADQUARTERS - CHIEF'S CONFERENCE ROOM (VIA TELECONFERENCE)

	FRB CHAIR (P78)	DCOP JJ Griego (Management Services and Support Bureau)				
	VOTING MEMBERS	DCOP Arturo Gonzalez (Investigative Bureau) DCOP Michael Smathers (Special Operations Bureau) Interim DCOP Joshua Brown (Field Services Bureau) Commander Arturo Sanchez (Field Services – Northwest)				
	NON-VOTING MEMBERS (P78)	Judge Rod Kennedy (City Legal) – via teleconference Lieutenant (FRB Admin Personnel/IAFD) Julie Jaramillo (FRB Admin Personnel/COD)				
	REPRESENTATIVÉS	Commander Renae McDermott (Training Academy) – via teleconference  A/ Commander Richard Evans (IAFD) – via teleconference  Sergeant  SOD/CNT) – via teleconference  (CIU) – via teleconference  A/ Lieutenant  (Training Academy) – via teleconference  Patricia Serna (Policy and Procedure) – via teleconference				
	OBSERVERS (P78b)	Detective (IAFD/Presenter) – via teleconference  DCOP Eric Garcia (Police Reform) – via teleconference  Interim DCOP Cori Lowe (Compliance Bureau) – via teleconference  Chief of Staff Cecily Barker (Chief's Office)  A/ Commander Jason Sanchez (COD) – via teleconference  Deputy Commander Ben Bourgeois (IAFD) – via teleconference  Sergeant (TDY COD) – via teleconference  Sergeant (IAFD) – via teleconference  Marvin Barnes (IAFD) – via teleconference  Dr. Jessica Henjy (Training Academy) – via teleconference  Carlos Pacheco (City Legal) – via teleconference  Elizabeth Martinez (USDOJ) – via teleconference  Corey Sanders (USDOJ) – via teleconference  Darryl Neier (EFIT) – via teleconference				
4	PREVIOUS MINUTES					
	UNFINISHED	• None				

TYPE: LEVEL 3 (P78)	DATE OF INCIDENT: OCTOBER 21, 2020	LOCATION:	TIMES: DISPATCH / ON SITE: 1319 HOURS
CASE PRESENTER	DETECTIVE		

DID THE LEAD DETECTIVE PRESENT THE CASE? (P78b)	☐ YES ⊠ NO ☐ NOT APPLICABLE
WHY DID THE LEAD INVESTIGATOR NOT PRESENT THE CASE?	☐ LEAD INVESTIGATOR NO LONGER IN UNIT ☐ LEAD INVESTIGATOR NOT AVAILABLE TO PRESENT ☐ LEAD INVESTIGATOR WAS CASE PRESENTER ☑ FRB DETECTIVE PRESENTER AND LEAD INVESTIGATOR PRESENT AS SME ☐ FRB DETECTIVE PRESENTER AND INVESTIGATIVE CHAIN UNAVAILABLE ☐ NOT AN IAFD PRESENTATION
INJURIES SUSTAINED	⊠ YES □ NO
DAMAGE TO PROPERTY	□ YES ⊠ NO
DID EACH VOTING MEMBER OF THE FORCE REVIEW BOARD REVIEW THE MATERIAL PRIOR TO THE MEETING?  (IN THE EVENT A VOTING MEMBER DID NOT REVIEW THE MATERIAL, THEY WILL BE INELIGIBLE TO VOTE ON THE CASE THIS WILL RESULT IN THE BELOW QUESTION "DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE" TO BE ANSWERED "YES")  DID THE FRB REVIEW THE CASE WITHIN 30 DAYS OF THE COMPLETION OF THE INVESTIGATION?	FIELD SERVICES DEPUTY CHIEF REPRESENTATIVE  YES ON ONT PRESENT  ADMINISTRATIVE DEPUTY CHIEF REPRESENTATIVE  YES ON ONT PRESENT  INVESTIGATIVE DEPUTY CHIEF REPRESENTATIVE  YES ON ONT PRESENT  TRAINING ACADEMY REPRESENTATIVE  YES ON NOT PRESENT  FIELD SERVICES COMMANDER REPRESENTATIVE  YES ON ONT PRESENT
(P78a)  DID THE BOARD GENERATE A REFERRAL REQUESTING ADDITIONAL INVESTIGATION TO IMPROVE THE FORCE INVESTIGATION FINDINGS? (P78c)	□ YES ⊠ NO
DISCUSSION	⊠ YES □ NO
DISCUSSION TOPICS	1. WHAT IS THE TRAINING FOR OFFICERS OF WHEN THEY ADVISE AN INDIVIDUAL THEY ARE BEING DETAINED VERSUS ARRESTED? WHY DOES AN OFFICER ADVISE AN INDIVIDUAL THEY ARE BEING DETAINED IF THEY KNOW THE INDIVIDUAL IS UNDER ARREST?  A. WHAT AN OFFICER ADVISES AN INDIVIDUAL HAS EVERYTHING TO DO WITH WHERE THEY ARE IN THE INVESTIGATIVE PROCESS.

- I. IF THE OFFICER HAS REASONABLE SUSPICION TO DETAIN AN INDIVIDUAL BUT IS STILL LACKING PROBABLE CAUSE, THEY WILL ADVISE THE INDIVIDUAL THEY ARE DETAINED.
- II. ONCE AN OFFICER ESTABLISHES
  PROBABLE CAUSE, THEY WILL ADVISE
  THE INDIVIDUAL THEY ARE UNDER
  ARREST.
- 2. ARE WE ELABORATING ON THIS TOPIC DURING TRAINING OF THE CADETS?

A YES

- 3. DID ARCHULETA ADVISE HE WOULD PRESS CHARGES AGAINST THE INDIVIDUAL BEFORE OR AFTER OFFICERS DETAINED THE INDIVIDUAL?
  - A. BEFORE.
    - I. INITIALLY, WHEN ARCHULETA DECLINED, OFFICERS ADVISED HIM WITHOUT A VICTIM, THEY DO NOT HAVE A CRIME.
    - II. ARCHULETA EXPRESSED CONCERN
      THINKING OFFICERS WERE NOT GOING TO
      TALK TO THE INDIVIDUAL, SO HE DECIDED
      TO PRESS CHARGES.
- 4. WHY DID OFFICERS NOT GO HANDS ON WHEN THE INDIVIDUAL WAS BEING COMPLIANT?
  - A. THE OFFICERS KNEW THE INDIVIDUAL WAS THE SUSPECT OF A VIOLENT FELONY AND POTENTIALLY ARMED WITH A BOX CUTTER. THEY FELT THE RISK OF INJURY TO GO HANDS ON WAS TOO GREAT.
- 5. WHAT WAS THE APPROXIMATE TIMEFRAME BETWEEN WHEN THE INDIVIDUAL WENT TO HIS KNEES TO WHEN HE BECAME NONCOMPLIANT AND HE TOOK OFF RUNNING?
  - A. APPROXIMATELY 10-SECOND PERIOD WHERE THE INDIVIDUAL BECAME NON-COOPERATIVE FROM WHEN THEY WERE GIVING ORDERS.
- 6. THE ON-SCENE ACTING SERGEANT WAS ORDERING FORCE. DID SHE FEEL THE OFFICERS WERE NOT TAKING ACTION OR WAS SHE JUST BEING PROACTIVE TO CONTROL THE SITUATION?
  - A. SHE WAS BEING PROACTIVE. THE OFFICER WAS A P2/C AT THE TIME OF THIS INCIDENT.
    - I. THE OFFICER ALSO EXPLAINED THIS DURING HIS USE OF FORCE INTERVIEW.
- 7. USE OF FORCE #5 (USE OF 40MM) WAS DEEMED OUT OF POLICY; HOWEVER, USE OF FORCE #6 (SHOW OF FORCE WITH THE 40MM) WAS IN POLICY. WHY IS ONE IN AND THE OTHER OUT OF POLICY WHEN THE BEHAVIOR OF THE INDIVIDUAL WAS SIMILAR DURING THOSE MOMENTS?
  - A. THE USE OF 40MM WAS DETERMINED TO BE AN OUT OF POLICY USE OF FORCE BECAUSE IT WAS NOT AN IMMINENT THREAT. THE SHOW OF FORCE WHEN THE INDIVIDUAL WAS RUNNING WAS REASONABLE DUE TO IT BEING THE MINIMUM AMOUNT OF FORCE NECESSARY AND THE

- OFFICER WAS TRYING TO GET THE INDIVIDUAL TO STOP HIS ACTIONS.
- B. HAD THE OFFICER USED THE 40MM IT WOULD HAVE BEEN DETERMINED TO BE AN OUT OF POLICY USE OF FORCE AS WELL.
- C. THERE WERE DISCUSSIONS BETWEEN IAFD AND COD TO DETERMINE IF THE FORCE USED WOULD BE OUT OF POLICY THEN THE SHOW OF FORCE WOULD ALSO BE OUT OF POLICY.
- 8. WERE THE USES OF FORCE #7 AND #8 DETERMINED TO BE OUT OF POLICY BECAUSE THEY WERE TASINGS FROM AN ELEVATED AND ON A FLEEING INDIVIDUAL ONLY?
  - A. BOTH USES OF FORCE WERE OUT OF POLICY REGARDLESS BECAUSE THEY WERE FLEEING AND ELEVATED POSITION.
- 9. THE PRESENTER'S STATEMENT OF THE CONVERSATION BETWEEN IAFD AND COD THAT IF A USE OF FORCE IS OUT OF POLICY, THEN A SHOW OF FORCE WITH THE SAME WEAPON SYSTEM WOULD ALSO BE OUT OF POLICY IS CONCERNING.
  - A. ULTIMATELY, IT WAS DETERMINED THIS WOULD NOT BE APPROPRIATE TO SAY, WHICH IS WHY THE SHOW OF FORCE WAS FOUND POLICY.
- 10. A SHOW OF FORCE IS SEEN AS THE SAME AS A LEVEL 1 USE OF FORCE. THIS SHOULD BE REEVALUATED BECAUSE THE INTENT BEHIND A SHOW OF FORCE IS TO CHANGE THE MIND FRAME OF AN INDIVIDUAL TO PREVENT THE NEED TO USE FORCE.
- 11. IS THERE A WAY TO WRITE THIS INTO POLICY TO COVER THE DIFFERENT CONCERNS?
  - A. THIS WOULD BE DIFFICULT TO COMPLETE.
- 12. HAD THE OFFICERS TACKLED THE INDIVIDUAL INSTEAD, WOULD IT HAVE BEEN AN IN POLICY USE OF FORCE?
  - A. IT WOULD BE EVALUATED WITH THE USE OF FORCE POLICY, NOT THE ECW POLICY.
- 13. THE UNREPORTED USE OF FORCE (SHOW OF FORCE) WAS DETERMINED TO BE IN POLICY. HOW WAS IT RECTIFIED THAT SHE MISSED THE SHOW OF FORCE?
  - A. DURING THE USE OF FORCE INTERVIEW, THE IAFD DETECTIVE ASKED THE OFFICER IF SHE REALIZED SHE MISSED THE SHOWS OF FORCE.
    - I. THE OFFICER ADVISED DID NOT REALIZE SHE HAD SHOWN FORCE.
- 14. SHE DID NOT KNOW SHE USED FORCE BUT HAD SHE USED FORCE, IT WOULD BE IN POLICY?
  - A. CORRECT.
- 15. THERE WERE TWO INSTANCES WHERE SHE DID NOT RECOGNIZE SHE USED FORCE?
  - A. CORRECT. WHEN DISCOVERED, SHE DID NOT RECEIVE ANY CORRECTIVE ACTION; HOWEVER, THEY DID NOT DO ANY FOLLOW UP DUE TO HER NO LONGER BEING WITH THE DEPARTMENT.

		16. WHAT TYPE OF CORRECTIVE ACTION WOULD OCCUR IF AN OFFICER FAILED TO IDENTIFY FORCE THEY USED NOW?					
		A. IF IAFD IDENTIFIES THIS NOW, A TARGET LETTER AND CORRECTIVE ACTION HAPPEN THROUGH					
			HE INVESTIGATION  WHEN IT GETS TO		OR FRB		
		P	REPARATION AND F DOCUMENTAT OLLOW UP WITH	ID IS DISCOVERE	ED, SOME TYPE R AND LIKELY		
		17, PRESEN	TER STATED THE	SHOW OF FOR	CE WAS USED		
		GAIN CO	SCALATE, THEN T IMPLIANCE. ARE SCALATE?	THEY SAID IT WA WE USING A SHI	S USED TO OW OF FORCE		
			O, MISSPOKE.				
		18. DID OFFICER #1 IDENTIFY WHETHER HE RECOGNIZED HE WAS INDEPENDENTLY JUSTIFIED TO USE FORCE OR WAS HE ONLY DOING IT BECAUSE HE WAS COMMANDED?					
			NDED! HE OFFICER IDE!	NTIFIED IT AS INC	DEPENDENTLY		
		J	USTIFIED ACTION ROM THE ACTING	IS, APART FROM	THE ORDER		
		<u> </u>		J JENGLANT.			
	DID ANY MEMBER IN ATTENDANCE		DID THE FRB, BY A MAJORITY VOTE, IDENTIFY CONCERNS,				
FAIL TO VOTE?  ☐ YES ☒ NO		DEFICIENCIES, OR SUCCESSES NOT IDENTIFIED BY THE CASE PRESENTER FOR:					
	TACTICS	501115115117	I				
(P <sup>78e</sup> ): POLICY  ☐ YES ☒ NO	TACTICS	EQUIPMENT	TRAINING	SUPERVISION	SUCCESSES		
WAS A POLICY VIOLA	☐ YES ⊠ NO	☐ YES ☑ NO	☐ YES ☒ NO	☐ YES ⊠ NO	☐ YES ☑ NO		
IDENTIFIED BY THE B		☐ YES ☒ NO					
PERSONNEL RESPONSIBLE FOR ENTERING THE INTERNAL AFFAIRS REQUEST (IAR)		N/A					
SOP TITLE OF VIOLATION		N/A					
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  □ YES ☑ NO		FOR TACTICAL ACTIVATIONS ONLY: WAS THE TACTICAL ACTIVATION IN ACCORDANCE WITH THE DEPARTMENT'S SPECIALIZED RESPONSE PROTOCOLS?					
MAJORITY VOTE		☐ YES ☐ NO ☒ NOT A TACTICAL ACTIVATION					
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  □ YES ☒ NO		CONCERNS, DE	ACTIVATIONS OF EFICIENCIES, OR EQUESTED TACTI PRESENTER?	SUCCESSES REL	ATED TO THE		
MAJORITY VOTE		☐ YES ☐ NO ☒ NOT A TACTICAL ACTIVATION					

DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A			
☐ YES ⊠ NO	MAJORITY VOTE, VOTE THAT THE IAFD INVESTIGATION WAS THOROUGH AND COMPLETE? (P78a)			
MAJORITY VOTE	☑ YES ☐ NO ☐ NOT AN IAFD INVESTIGATION			
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☒ NO	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A MAJORITY VOTE, DETERMINE THAT THE UOF IS CONSISTENT WITH DEPARTMENT POLICY? (P78d)			
MAJORITY VOTE	☐ YES 図 NO ☐ NOT AN IAFD INVESTIGATION			
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☒ NO	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A MAJORITY VOTE, DETERMINE THAT THE IAFD INVESTIGATOR'S FINDINGS ARE SUPPORTED BY THE PREPONDERANCE OF EVIDENCE? (P78a)			
MAJORITY VOTE	☑ YES ☐ NO ☐ NOT AN IAFD INVESTIGATION			
DID THE CPOA EXECUTIVE DIRECTOR HAVE THE OPPORTUNITY TO ASK QUESTIONS OR MAKE A STATEMENT TO THE PRESENTER?  ☐ YES ☒ NO (NOT PRESENT)				
DISCUSSION TOPICS	1. NOT PRESENT.			

CASE # 21-0055772  TYPE: LEVEL 2 (P78)	DATE OF LOCATION: TIMES: INCIDENT: JULY 17, 2021 DISPATCH / ON SITE: 1406 HOURS
CASE PRESENTER	DETECTIVE
DID THE LEAD DETECTIVE PRESENT THE CASE? (P78b)	☐ YES ☑ NO ☐ NOT APPLICABLE
WHY DID THE LEAD INVESTIGATOR NOT PRESENT THE CASE?	☐ LEAD INVESTIGATOR NO LONGER IN UNIT ☐ LEAD INVESTIGATOR NOT AVAILABLE TO PRESENT ☐ LEAD INVESTIGATOR WAS CASE PRESENTER ☑ FRB DETECTIVE PRESENTER AND LEAD INVESTIGATOR PRESENT AS SME ☐ FRB DETECTIVE PRESENTER AND INVESTIGATIVE CHAIN UNAVAILABLE ☐ NOT AN IAFD PRESENTATION
INJURIES SUSTAINED	⊠ YES □ NO
DAMAGE TO PROPERTY	□ YES Ø NO

			FIELD SERVICES DEPUTY CHIEF REPRESENTATIVE  YES  NO  NOT PRESENT				
THEF	ACH VOTING MEMBER OF ORCE REVIEW BOARD W THE MATERIAL PRIOR TO		ADMINISTRATIVE DEPUTY CHIEF REPRESENTATIVE  ☑ YES ☐ NO ☐ NOT PRESENT				
THE MEETING?  (IN THE EVENT A VOTING MEMBER DID NOT REVIEW THE MATERIAL. THEY WILL BE INELIGIBLE TO VOTE ON THE CASE THIS WILL RESULT IN THE BELOW QUESTION 'DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE," TO BE ANSWERED 'YES')			DEPUTY CHIEF		/E		
			DEMY REPRESEN				
			FIELD SERVICES COMMANDER REPRESENTATIVE  ☑ YES □ NO □ NOT PRESENT				
DID THE FRB REVIEW THE CASE WITHIN 30 DAYS OF THE COMPLETION OF THE INVESTIGATION?		⊠ YES □ NO					
DID THE BOARD GENERATE A REFERRAL REQUESTING ADDITIONAL INVESTIGATION TO IMPROVE THE FORCE INVESTIGATION FINDINGS? (P78c)		□ YES Ø NO					
DISCL	ISSION		⊠ YES □ NO	_			
DISCUSSION TOPICS		<ol> <li>LOOKING AT A COST BENEFIT ANALYSIS WITH THIS ONLY BEING A SHOPLIFTING, THIS DOES NOT MAKE SENSE; HOWEVER, DUE TO THE ACTIONS OF THE INDIVIDUAL, IT WAS NECESSARY. HAD HE COOPERATED, WOULD THE INDIVIDUAL RECEIVED A CITATION AND BE ON HIS WAY?         <ul> <li>A. CORRECT.</li> </ul> </li> <li>REFERRAL FOR REVIEW OF POLICIES 2.56.5.C.1 AND 2.57.3.C.1.G REGARDING COMPLETION OF USE OF FORCE NARRATIVES TO TAKE INTO ACCOUNT OFFICER FATIGUE AND THE ABILITY FOR A SUPERVISOR TO GRANT AN EXTENSION WHERE NECESSARY. DUE IN 60 DAYS.</li></ol>					
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☒ NO		DID THE FRB, BY A MAJORITY VOTE, IDENTIFY CONCERNS, DEFICIENCIES, OR SUCCESSES NOT IDENTIFIED BY THE CASE PRESENTER FOR:					
(P78e).	POLICY -	TACTICS	EQUIPMENT	TRAINING	SUPERVISION	SUCCESSES	
	☑ YES ☐ NO	☐ YES ☒ NO	☐ YES ⊠ NO	☐ YES ☒ NO	☐ YES ☒ NO	□YES ⊠ NO	

WAS A POLICY VIOLATION IDENTIFIED BY THE BOARD?	□ YES ⊠ NO
PERSONNEL RESPONSIBLE FOR ENTERING THE INTERNAL AFFAIRS REQUEST (IAR)	N/A
SOP TITLE OF VIOLATION	N/A
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  □ YES ☑ NO	FOR TACTICAL ACTIVATIONS ONLY: WAS THE TACTICAL ACTIVATION IN ACCORDANCE WITH THE DEPARTMENT'S SPECIALIZED RESPONSE PROTOCOLS?
MAJORITY VOTE	☐ YES ☐ NO ☒ NOT A TACTICAL ACTIVATION
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☒ NO	FOR TACTICAL ACTIVATIONS ONLY: ARE THERE ANY OTHER CONCERNS, DEFICIENCIES, OR SUCCESSES RELATED TO THE UNITS THAT REQUESTED TACTICAL SUPPORT NOT IDENTIFIED BY THE CASE PRESENTER?
MAJORITY VOTE	☐ YES ☐ NO ❷ NOT A TACTICAL ACTIVATION
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☑ NO	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A MAJORITY VOTE, VOTE THAT THE IAFD INVESTIGATION WAS THOROUGH AND COMPLETE? (P78s)
MAJORITY VOTE	☑ YES ☐ NO ☐ NOT AN IAFD INVESTIGATION
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?  ☐ YES ☒ NO	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A MAJORITY VOTE, DETERMINE THAT THE UOF IS CONSISTENT WITH DEPARTMENT POLICY? (P78d)
MAJORITY VOTE	☑ YES ☐ NO ☐ NOT AN IAFD INVESTIGATION
DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE?	FOR IAFD INVESTIGATIONS ONLY: DID THE FRB, BY A MAJORITY VOTE, DETERMINE THAT THE IAFD INVESTIGATOR'S FINDINGS ARE SUPPORTED BY THE PREPONDERANCE OF EVIDENCE? (P78a)
MAJORITY VOTE	☑ YES ☐ NO ☐ NOT AN IAFD INVESTIGATION
DID THE CPOA EXECUTIVE DIRECTOR STATEMENT TO THE PRESENTER?  ☐ YES ☒ NO (NOT PRESENT)	R HAVE THE OPPORTUNITY TO ASK QUESTIONS OR MAKE A
DISCUSSION TOPICS	1. NOT PRESENT

DID ANY MEMBER IN ATTENDANCE FAIL TO VOTE FOR THE REFERRAL? □ YES ☒ NO □ IAR	REFERRAL INFORMATION
TYPE OF REFERRAL(S): (P78e)	<ul> <li>☑ POLICY</li> <li>☐ POLICY VIOLATION (IAR)</li> <li>☐ TRAINING</li> <li>☐ SUPERVISION</li> <li>☐ EQUIPMENT</li> <li>☐ TACTICS</li> <li>☐ SUCCESS (IAR)</li> </ul>
REFERRAL(S): (P78e)	POLICY AND PROCEDURE MANAGER PATRICIA SERNA WILL REVIEW POLICIES 2.56.5.C.1 AND 2.57.3.C.1.G REGARDING COMPLETION OF USE OF FORCE NARRATIVES TO TAKE INTO ACCOUNT OFFICER FATIGUE AND THE ABILITY FOR A SUPERVISOR TO GRANT AN EXTENSION WHERE NECESSARY.
EMPLOYEE RESPONSIBLE FOR RESPONDING TO REFERRAL(S): (P78e)	POLICY AND PROCEDURE MANAGER PATRICIA SERNA
DEADLINE: (P78e)	JANUARY 3, 2022

Next FKB	Meeting: November 4, 2021	
Signed:		
	Harold Medina, Chief of Police	